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10/698,933	11/03/2003	Christopher J. Wright	06975-074002 / Security 0	5055
26171	7590	11/18/2008	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				SHINGLES, KRISTIE D
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/698,933	Applicant(s) WRIGHT ET AL.
	Examiner KRISTIE D. SHINGLES	Art Unit 2441

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 August 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 50-71 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 66-71 is/are allowed.

6) Claim(s) 50, 52-58 and 60-65 is/are rejected.

7) Claim(s) 51 and 59 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/2008

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Per Applicant's Request for Continued Examination

Response to Amendments

Claims 1-49 have been cancelled.
Claims 50-71 have been newly added.

Claims 50-71 are pending examination.

Claims 51 and 59 are objected.
Claims 66-71 are allowed.

Continued Examination Under 37 CFR 1.114

I. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/25/2008 has been entered.

Allowable Subject Matter & Reasons for Allowance

II. **Claims 66-71 are allowed.**

In light of the arguments presented in the Remarks pages 12-15 on 8/25/2008, the above claims are allowed over the prior art. The prior art fails to teach or suggest the claimed features of: a method monitoring access requests to access providers comprising:

observing, using an intermediary device other than an access providing host that assigns resources responsive to inbound access requests, information identifying a requestor based on receipt of the requestor's submission of an access request to a first access providing host;

accessing, using the intermediary device, stored information identifying previous requestors, of the first access providing host as well as of other access providing hosts, that are determined to have submitted a previous access request that has timed out prior to submission of an acknowledgement corresponding to the previous access request;

comparing, using the intermediary device, the observed information identifying the requestor to the stored information identifying previous requestors;

when the comparison reveals that the requestor has submitted a previous access request that has timed out prior to submission of an acknowledgement corresponding to the previous access request, denying, using the intermediary device, the access request submitted by the requestor while denying passage of the access request to the first access providing host; and

when the comparison reveals that the requestor has not submitted a previous access request that has timed out prior to submission of an acknowledgement corresponding to the previous access request:

monitoring, using the intermediary device, a partially-completed connection transaction resulting from the access request to determine whether a time out condition occurs prior to requester submission of an acknowledgement corresponding to the access request, and

to the extent that a time out condition is determined to exist, adding, using the intermediary device, information identifying the requestor to the stored information identifying previous requestors for use in comparing against future requestors that submit an access request (for support, see Specification pages 8-13).

The prior art does not specifically disclose these limitations singly or in combination such that the claimed invention would have been anticipated or made obvious to one of ordinary skill in the art. The detailed claim language of monitoring a partially-completed connection when a comparison results shows that the requesting user has not attempted to access a host with a request that has timed-out, in conjunction with other steps/elements, provides distinctions between the inventive scope and the prior art and therefore is considered sufficient for allowability by the Examiner.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

III. Claims 51 and 59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

claim and any intervening claims.

- **Claim 51** (which includes the independent claim 51) recites the allowable subject matter (substantially equivalent in scope to the allowable subject matter discussed above):

The method of claim 50 wherein blocking, at the intermediary device, the second connection transaction request further comprises:

identifying, at the intermediary device, the requestor device based on the second connection transaction request;

accessing, at the intermediary device, information identifying requestor devices from which the intermediary device has previously received a connection transaction request that resulted in a partially-completed connection transaction that reached a time out condition prior to receipt of an acknowledgement corresponding to the connection transaction request, the accessed information reflecting the determination that the first connection transaction request resulted in a partially-completed connection transaction that reached a time out condition prior to receipt of an acknowledgement corresponding to the first connection transaction request;

comparing, at the intermediary device, the accessed information to the identified requestor device; and

based on comparison results, determining, at the intermediary device, that the intermediary device previously received, from the requestor device, that first connection transaction request that requested access to the first access providing host and that resulted in a partially-completed connection transaction that reached a time out condition prior to receipt of an acknowledgement corresponding to the first connection transaction request.

- **Claim 59** (which includes the independent claim 58) is substantially equivalent in scope to claim 51 and differs merely in statutory class.

Claim Rejections - 35 USC § 112, first paragraph

IV. **Claims 54 and 62** are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitations recited in Claims 54 and 62 fail to further limit the claimed invention of

their preceding parent claims. Correction is required.

Claim Rejections - 35 USC § 102

V. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

VI. Claims 50, 52-55, 58 and 60-63 are rejected under 35 U.S.C. 102(b) as being anticipated by Olnowich et al (US 5,444,705).

a. Per claim 50, *Olnowich et al* teach a method for monitoring connection transactions with access providers, the method comprising:

- receiving, at an intermediary device that is configured to facilitate communications between a requestor device and first and second access providing hosts, a first connection transaction request from the requestor device that requests access to the first access providing host (*col.15 lines 22-28—switching device between requesting node and providing node*);
- subsequent to receiving the first connection transaction request, receiving, at the intermediary device, a second connection transaction request from the requestor device that requests access to the second access providing host (*col.15 lines 22-28—high and low priority connections to nodes via the switching device*);
- determining, at the intermediary device, that the first connection transaction request resulted in a partially-completed connection transaction that reached a time out condition prior to receipt of an acknowledgement corresponding to the first connection transaction request (*col.8 lines 32-39—switching device determines the first low priority connection has been in a WAIT condition for a period of time*); and
- based on the determination that the first connection transaction request resulted in a partially-completed connection transaction that reached a time out condition prior to receipt of an acknowledgement corresponding to the first connection transaction request, blocking, at the intermediary device, the second connection transaction request to prevent the second connection transaction request from reaching the second access providing host (*col.15 lines 34-38—the high priority*

connection attempt using the high priority path is prevented due to the already established low priority connection).

b. **Claim 58** contain limitations that are substantially equivalent to claim 4 and are therefore rejected under the same basis.

c. **Per claim 52**, *Olnowich et al* teach the method of claim 50 wherein the intermediary device is a switch configured to perform load balancing techniques for communications directed to the first and second access providing hosts (*col.5 line 12-col.6 line 5*).

d. **Claim 60** is substantially equivalent to claim 52 and is therefore rejected under the same basis.

e. **Per claim 53**, *Olnowich et al* teach the method of claim 50 wherein determining, at the intermediary device, that the first connection transaction request resulted in a partially-completed connection transaction that reached a time out condition prior to receipt of an acknowledgement corresponding to the first connection transaction request comprises: accessing, at the intermediary device, a time out threshold; measuring, at the intermediary device, an amount of time that the intermediary has been waiting for an acknowledgement corresponding to the first connection transaction request; comparing, at the intermediary device, the measured amount of time to the time out threshold; and determining, at the intermediary device, that the first connection transaction request resulted in a partially-completed connection transaction that reached a time out condition when the comparison reveals that the measured amount of time exceeds the time out threshold (*col.8 lines 32-39, col.10 lines 32-56*).

f. **Claim 61** is substantially equivalent to claim 53 and is therefore rejected under the same basis.

g. **Per claim 54**, *Olnowich et al* teach the method of claim 50 wherein, at the time of blocking the second connection transaction request, the intermediary device has not previously received, from the requestor device, a connection transaction request that requested access to the second access providing host and that resulted in a partially-completed connection transaction that reached a time out condition prior to receipt of an acknowledgement corresponding to the connection transaction request (*col.10 lines 5-31, col.15 lines 34-38*).

h. **Claim 62** is substantially equivalent to claim 54 and is therefore rejected under the same basis.

i. **Per claim 55**, *Olnowich et al* teach the method of claim 50 wherein blocking, at the intermediary device, the second connection transaction request further comprises delaying termination of a partially-completed connection transaction based on the second connection transaction request to allow the intermediary device to continue monitoring communications from the requestor device to the second access providing host (*col.9 lines 54-65, col.10 lines 32-43*).

j. **Claim 63** is substantially equivalent to claim 55 and is therefore rejected under the same basis.

Claim Rejections - 35 USC § 103

VII. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

VIII. Claims 56-57 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olnowich et al (US 5,444,705) in view of Juels et al (US 7,197,639).

k. **Per claim 56,** *Olnowich et al* teach the method of claim 50 as applied above, yet fail to further teach the method of claim 50 further comprising: determining, at the intermediary device, whether a return address included in the second connection transaction request differs from an actual return address of the requestor device; and blocking, at the intermediary device, the second connection transaction request in response to a determination that the return address included in the second connection transaction request differs from the actual return address of the requestor device. However, *Juels et al* teach storing information related to the access requestor comprises storing an IP address used by the access requestor; and blocking future requests from the access requestor when the IP address differs from the actual return address of the requestor (col.11 line 61-col.12 line 3, col.17 lines 25-35, col.21 lines 42-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Olnowich et al* with *Juels et al* for protecting the integrity of the network connections and devices by monitoring the accurate address of the requestors to assure the user's address information has not been compromised.

I. **Claims 57 and 64-65** are substantially equivalent to claim 56 and are therefore rejected under the same basis.

Conclusion

IX. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure: Cox et al (6738814), Eisendrath et al (7437457), Attanasio et al (6496866), Shafrir et al (7103846), Goldszmidt et al (6195680).

X. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie D. Shingles
Examiner
Art Unit 2441

/KDS/

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/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444